IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7169 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 NO

YUVRAJ ANNA GAYAKWAD

Versus

DEPUTY COMMISSIONER OF POLICE (ADMINISTRATION)

Appearance:

MR NAVIN PAHWA for MR PM THAKKAR for Petitioner

MR AJ DESAI AGP for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 20/09/2001

ORAL JUDGEMENT

1. This petition under Article 226 of the Constitution is filed by a Police Constable seeking to set aside the order dated 14.9.1990, whereby, he was ordered to vacate the quarter where he was living on the ground that he was involved in some criminal offences and indulging in quarrels in the police line.

2. It was submitted that by virtue of the impugned order, the petitioner was sought to be permanently disqualified from allotment of any police quarter at any point of time and directed to evict the police quarter allotted to him wherein he was living with his family. The impugned order is challenged on the grounds that no opportunity of hearing was granted to the petitioner before making the order, that the authority had no powers to issue such order and that the impugned order was passed without application of mind. According to the petition, there happened to be a solitary incident of quarrel between the wife of the petitioner and the wife of the Head Constable who happened to be his neighbour and a complaint and cross-complaint came to be registered. The petition is not seriously contested on behalf of the respondent and the impugned order has never operated as its operation was stayed by virtue of the interim relief which was initially granted and the same has continued to operate till now. In view of the fact that the averments and the grounds stated in the petition are not controverted on behalf of the respondent, and in view of the peaceful passage of long time without any fact of further incident being placed on record, the petition is required to be allowed to the extent that the interim relief granted earlier should be made absolute. Accordingly, the petition is partly allowed and the impugned order at Annexure-A to the petition is set aside. Rule is made absolute with no order as to costs.

Sd/-

20.9.2001 (D.H.Waghela, J.)

(KMG Thilake)